

James M. Hanavan, State Bar No. 66097  
Kristen E. Drake, State Bar No. 202827  
CRAIGIE, McCARTHY & CLOW  
540 Pacific Avenue  
San Francisco, CA 94133  
Telephone: (415) 732-7788  
Facsimile: (415) 732-7783

Attorneys for Defendants  
SAFER TECHNOLOGIES, INC.,  
CERMA TECHNOLOGY, INC.,  
GEORGE ACKERSON, MARY STRANAHAN,  
NICHOLAS STREIT and EDWARD HALBACH

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MOTOR WORKS LLC,

Plaintiff,

vs.

SAFER TECHNOLOGIES, INC., CERMA  
TECHNOLOGY, INC., GEORGE  
ACKERMAN, MARY STRANAHAN,  
NICHOLAS STREIT, TIM STREIT and  
EDWARD HALBACH,

Defendants.

Case No.: 08-CV-03608 JW

**DEFENDANTS' RENEWED MOTION  
FOR TEMPORARY RESTRAINING  
ORDER IN LIGHT OF EVIDENCE JUST  
OBTAINED**

**AND**

**NOTICE OF ADDITIONAL EVIDENCE  
JUST OBTAINED IN SUPPORT OF  
MOVING PARTIES' REPLY BRIEF IN  
SUPPORT OF MOTION FOR LEAVE TO  
FILE COUNTERCLAIMS**

Date: March 8, 2010  
Time: 9:00 a.m.  
Courtroom: 8, 4<sup>th</sup> Floor  
Judge: Hon. James Ware

TO EACH PARTY AND THEIR ATTORNEY OF RECORD:

PLEASE TAKE NOTICE THAT a third party, Daniel M. Godbout, has just confirmed that John Murray, Plaintiff Motor Works LLC's principal, did indeed post the subject defamatory articles about Defendants Safer Technologies, Inc. ("Safer") and Cerma Technology, Inc. ("CTI"), collectively "Defendants", on the "Ripoff Report" website.

1 In his declaration, attached as Exhibit "A" to the accompanying declaration of Kristen E.  
 2 Drake, Mr. Godbout states that Murray "asked for my help with some Rip Off reports that he had  
 3 filed against companies and products. The Rip Off reports are on the internet on the Rip Off  
 4 Report web site and are against the products Cermax..., and the companies Safer  
 5 Technologies..." [Declaration of Daniel M. Godbout ("Godbout Decl.") at ¶ 2.]

6 Mr. Godbout further states that Murray was asking for help regarding the internet ranking  
 7 of the Ripoff Report articles as the "reports he [Murray] filed were having unintended damaging  
 8 results to his [Murray's] product and company and against his Cerma Canada Distributor."  
 9 [Godbout Dec. at ¶ 3.] Murray wanted Mr. Godbout's assistance in "lower[ing] the ranking on  
 10 the reports that were causing him and his distributors damage and/or concern." Mr. Godbout  
 11 elected not to assist Mr. Murray. [Godbout Dec. at ¶ 4.]

12 In light of this new evidence, Defendants Safer and CTI, by and through their undersigned  
 13 counsel, hereby renew their motion to this Court for a temporary restraining order prohibiting  
 14 Plaintiff Motor Works LLC ("Motor Works") and John Murray from posting false, disparaging  
 15 remarks about Defendants on the website "Ripoff Report", or any other website or written form of  
 16 media, and from infringing Defendants' CERMAX and CERMA ADVANCED LUBRICATION  
 17 TECHNOLOGY trademarks.

18 Defendants Safer and CTI bring this application on the ground that immediate and  
 19 irreparable injury, loss and damage will result to Defendants before notice can be given and the  
 20 Plaintiff and its attorneys can be heard in opposition, in light of the most recent January 21, 2010  
 21 "Ripoff Report" posting. This renewed motion is based on this notice, the accompanying  
 22 declaration of Kristen E. Drake, which attaches the declaration of Daniel M. Godbout, the  
 23 Memorandum of Points and Authorities in support of this motion (Docket #68), the Declarations  
 24 of James M. Hanavan (Docket #74), Jay Erickson (Docket #72), Greg Soderberg (Docket #73),  
 25 Andy Heintzelman (Docket #70), George Ackerson (Docket #71) and Nicholas Streit (Docket #  
 26 75), as well as the Reply Declaration of Nicholas Streit (Docket # 81) and the Declaration of Dr.  
 27 Alvah Bittner (Docket #82).

1 More specifically, Defendants move for an Order to provide the following immediate and  
 2 temporary relief and to show cause, fixing the time for hearing a motion for a preliminary  
 3 injunction:

4 **RELIEF SOUGHT BY DEFENDANTS:**

5 Defendants ask the Court to enjoin Plaintiff Motor Works and John Murray, as well as  
 6 their successors, assigns, officers, agents, directors, servants, employees, salespersons,  
 7 independent contractors, attorneys, corporations, subsidiaries, all other persons or entities directly  
 8 or indirectly under their control or under common control with any of them, and all other persons  
 9 or entities in active concert or participation with any of them who receive actual notice of this  
 10 Order by personal service or otherwise, whether acting directly or through any corporation,  
 11 subsidiary, division, or other device, including but not limited to fictitious business names, and  
 12 each such person from publishing false statements about Defendants, their products or services on  
 13 "Ripoff Report", or any other website or written form of media.

14 Further, Defendants ask the Court to enjoin Plaintiff Motor Works and John Murray as  
 15 well as their successors, assigns, officers, agents, directors, servants, employees, salespersons,  
 16 independent contractors, attorneys, corporations, subsidiaries, all other persons or entities directly  
 17 or indirectly under their control or under common control with any of them, and all other persons  
 18 or entities in active concert or participation with any of them who receive actual notice of this  
 19 Order by personal service or otherwise, whether acting directly or through any corporation,  
 20 subsidiary, division, or other device, including but not limited to fictitious business names, and  
 21 each such person from using or registering any CERMAX and CERMA ADVANCED  
 22 LUBRICATION TECHNOLOGY mark, however spelled or punctuated, whether capitalized,  
 23 abbreviated, singular or plural, printed or stylized, whether alone or in combination with any  
 24 word(s), punctuation or symbol(s), and whether used in caption, text, orally or otherwise, or any  
 25 other reproduction, counterfeit, copy, colorable imitation or confusingly similar variation of the  
 26 CERMAX and CERMA ADVANCED LUBRICATION TECHNOLOGY mark, as a trademark  
 27 or service mark, trade name or domain name, or using such a mark in the advertising, distribution,  
 28

1 sale, or offering for sale of any products or services.

2 **CERTIFICATION UNDER LOCAL RULE 65-1(b)**

3 Defendants hereby certify that, pursuant to Local Rule 65-1(b), counsel applying for the  
4 temporary restraining order delivered notice of this motion to the email address of opposing  
5 counsel on February 23, 2010, as detailed in the accompanying declaration of counsel, before the  
6 day of the *ex parte* motion.

7  
8  
9 Dated: February 23, 2010

CRAIGIE, MCCARTHY & CLOW

10  
11  
12 /s/ James M. Hanavan

13 By: James M. Hanavan  
14 Attorneys for Defendants  
15 SAFER TECHNOLOGIES, INC.,  
16 CERMA TECHNOLOGY, INC.,  
17 GEORGE ACKERSON,  
18 MARY STRANAHAN,  
19 NICHOLAS STREIT and  
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CRAIGIE, MCCARTHY & CLOW  
Telephone: 415/732-7788 · Facsimile: 415/732-7783